



JONATHAN E. FIELDING, M.D., M.P.H.
Director and Health Officer

JONATHAN E. FREEDMAN
Chief Deputy Director

313 North Figueroa Street, Room 806
Los Angeles, California 90012
TEL (213) 240-8117 • FAX (213) 975-1273

www.publichealth.lacounty.gov



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October 17, 2011

TO: Each Supervisor

FROM: Jonathan E. Fielding, M.D., M.P.H. *je fielding m*
Director and Health Officer

SUBJECT: **RECOMMENDATIONS TO IMPROVE THE QUALITY OF SERVICE
PROVIDED TO PUBLIC HEALTH PERMIT HOLDERS**

On May 10, 2011, the Board adopted a motion authored by Supervisor Yaroslavsky instructing the Department of Public Health (DPH) to report back within 60 days with recommendations to improve its services to Public Health permit holders. In particular, the Board instructed DPH to address three issues: (1) slow response time to plan check requests; (2) inconsistent interpretation and enforcement of the California Retail Food Code (Cal Code); and (3) the unprofessional behavior of some Environmental Health (EH) staff, and ways to ensure that permit holders are able to share their concerns without fear of retaliation.

In response to the Board motion, DPH reviewed current practices above and identified actions to improve service.

Response Time to Plan Check Requests

Pursuant to State and local regulations, EH conducts plan check activities for new construction and remodeling of restaurants, markets, food vehicles, caterers, and wholesale food manufacturers. A plan check is also required for construction or modification of public swimming pools, onsite wastewater treatment systems, recycled water systems, installation of X-ray machines, and the drilling or destroying of water wells.

In the case of food facilities, the plan check process is comprised of several steps. First, an inspector reviews the construction plans to determine if they meet the requirements of applicable State and local codes. The requirements are most stringent for facilities that are engaged in a full range of food processing. State law requires that within 20 days of submission, the inspector identifies any deficiencies in the plans, documents them on a plan correction sheet, and informs the applicant of the required corrections. Typical corrections relate to insufficient information on storage, plumbing, and mechanical details (ventilation hoods over cooking equipment); or the use of equipment that is not approved for

commercial use. After the plans are corrected by the applicant and returned, the inspector determines whether the appropriate corrections have been made, and if so, approves the plans. In most cases, the applicant is also required to receive approval from the local building and safety jurisdiction and fire department.

After construction is completed, a final inspection is made to determine if the facility was constructed or modified in accordance with the approved plans. Additionally, field inspections may also be conducted during construction at the request of the applicant. If the inspector identifies the need for corrections, the applicant is advised on how to bring the facility into compliance. Once all necessary corrections are completed, a health permit is issued.

EH records indicate that approximately one third of plan submittals in FY 2010-11 were not reviewed within the required 20 days. To meet this requirement, EH has determined that the Plan Check Program requires additional staffing.

Recommendations:

- DPH will review its process and identify ways to improve its ability to meet the State-mandated 20-day plan check review time, which may include reassigning staff with EH. In addition, EH will provide operators with an estimated completion date at the time of submission.
- For an additional fee, DPH will develop an "expedited plan check review process" which will offer applicants the option of a plan check review within 10 business days. This process will be achieved by utilizing overtime in order to minimize the impact on other programs.

Interpretation and Enforcement of the California Retail Food Code (Cal-Code)

Cal-Code requirements are generally clear and the plan check process is normally completed without significant issues arising. However, certain sections of the Code are less clear and require interpretation by the inspector. Sections regarding the full enclosure of a food facility or use of finishes and food equipment are open to interpretation. This has been the case with finishes that are new or green products and food equipment that is foreign, unique, or uses new technologies or innovations that inspectors have never encountered before. This may lead to disagreements between the inspector and the applicant. Inspectors are directed to elevate any such issues to their Chief for review. If the applicant is dissatisfied with the Chief's decision, the Chief should elevate the matter further within EH management. If the issue is still unresolved following management review, the applicant is referred to the EH Ombudsman. Such matters may ultimately require final determination by the EH Director.

Recommendations:

- DPH will provide food inspection staff with Cal-Code refresher training every two years. Staff will be required to demonstrate competency in the consistent and uniform interpretation of Cal-Code.
- DPH will meet periodically with members of the regulated industries to identify any concerns, and discuss methods to improve the consistent interpretation and enforcement of Cal-Code.

- The EH Ombudsman will convene a quarterly roundtable with food program supervisors to discuss and clarify regulatory issues and identify additional training needs. These meetings will also include any concerns raised by members of the regulated industry. Policy decisions will be communicated to staff via guidance documents or other means.

Behavior of Some Environmental Health Staff and Operator Fear of Retaliation

DPH has procedures and processes in place to evaluate the quality of work of the inspector and their demeanor. DPH routinely conducts "field audits" and "food inspection reviews" to ensure inspectors are adhering to DPH policies and procedures. During a "field audit," the supervisor audits at least five sites that the inspector inspected the prior work day. Each site is visited to assess the quality of the inspection conducted, and the facility operator is asked about the inspector's demeanor/conduct and professionalism. If a situation or condition is revealed that is contrary to DPH policy, supervision initiates appropriate action. Inspectors are audited at least annually. The "food inspection review" is an additional audit that addresses the quality of the inspection as it relates to food safety. It is a useful tool in working with inspectors to improve the quality and effectiveness of their food facility inspections.

While audits can often identify instances of unprofessional conduct, owners and operators may be reluctant to share such concerns for fear of retaliation. In recognition, DPH has placed on the back of the food inspection report, a notification to owners and operators advising them of the availability of the EH Ombudsman to handle matters involving inspector misconduct.

Recommendations:

- DPH will provide refresher training in professionalism, ethics, and public relations skills every two years to all EH staff who come in contact with the public, including field inspectors and clerical staff. Policies pertaining to professional conduct will be reviewed with staff annually.
- A customer satisfaction survey will be developed to elicit input from public/industry regarding the quality of service provided by EH.
- Food operators will be made aware of the information listed on the inspection report directing them to contact office supervision or the EH Ombudsman if they have questions or concerns. DPH will also investigate the possibility of utilizing the County's Office of Ombudsman to facilitate a third party appeals process.

EH policies will be revised to require that supervisors inform operators of the process to file complaints regarding employee misconduct during "field audits," "food inspection reviews," and joint inspections with field staff. Operators will be encouraged to elevate unresolved concerns without fear of retaliation.

We are confident that these actions will substantially improve the quality of service provided by DPH. If you should have any questions or would like additional information, please let me know.

JEF:ajb
PH:1106:003

c: Chief Executive Officer
County Counsel
Executive Officer, Board of Supervisors